

## **REMARKS**

### **Status of the Claims**

Claims 1-4 and 6-13 will be pending in the above-identified application upon entry of the present amendment. Claim 1 has been amended by incorporating the subject matter of claim 5. As such, claim 5 has been cancelled herein. Thus, no new matter has been added. Based upon the above considerations, entry of the present amendment is respectfully requested.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

### **Priority Under 35 U.S.C. § 119**

Applicants thank the Examiner for acknowledging Applicants' claim for foreign priority under 35 U.S.C. § 119 and receipt of the certified priority document.

### **Information Disclosure Citation**

Applicants thank the Examiner for considering the references supplied with the Information Disclosure Statements filed on November 23, 2005 and February 23, 2006 and for providing Applicants with initialed copies of the PTO-SB08 forms filed therewith.

### **Oath/Declaration**

The Examiner has requested a new Oath/Declaration. Enclosed herewith is a new copy of the Declaration.

### **Allowable Subject Matter**

Applicants acknowledge the indication of allowable subject matter of claim 5 if rewritten into independent form and of claims 9-13. Applicants have incorporated the allowable subject matter of claim 5 into independent claim 1. All pending claims depend from either claim 1 or claim 9. As such, all pending claims are believed to be directed to allowable subject matter. Therefore, Applicants respectfully submit that this application is now in condition for allowance. An early reconsideration and Notice of Allowance are respectfully requested.

**Issues under 35 U.S.C. § 112, first paragraph**

Claims 1-4 and 6-8 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Examiner asserts that the step of regulating the water content of the reaction system is critical or essential to the practice of the invention but is not included in the claims. Applicants respectfully traverse.

Claim 1 has been amended to incorporate the subject matter of claim 5, which the Examiner has indicated to contain allowable subject matter and which recites the step of regulating the water content. As such, Applicants respectfully submit that the rejection has been overcome and should be withdrawn.

**Issues under 35 U.S.C. § 103**

Claims 1-4 and 6-8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Voegeli '967 (US 2,628,967). Applicants respectfully traverse. Reconsideration and withdrawal of the outstanding rejection are respectfully requested based on the following considerations.

**Legal Standard for Determining Prima Facie Obviousness**

MPEP 2141 sets forth the guidelines in determining obviousness. First, the Examiner has to take into account the factual inquiries set forth in *Graham v. John Deere*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), which has provided the controlling framework for an obviousness analysis. The four *Graham* factors are:

- (a) determining the scope and content of the prior art;
- (b) ascertaining the differences between the prior art and the claims in issue;
- (c) resolving the level of ordinary skill in the pertinent art; and
- (d) evaluating any evidence of secondary considerations.

*Graham v. John Deere*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966).

Second, the Examiner has to provide some rationale for determining obviousness. MPEP 2143 sets forth some rationales that were established in the recent decision of *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007).

As the MPEP directs, all claim limitations must be considered in view of the cited prior art in order to establish a *prima facie* case of obviousness. *See* MPEP 2143.03.

*Distinctions over the Cited Reference*

As amended, claim 1 recites the subject matter of claim 5, which the Examiner has indicated to be allowable subject matter. As such, Voegeli '967 does not disclose each and every element of independent claim 1.

To establish a *prima facie* case of obviousness of a claimed invention, all of the claim limitations must be disclosed by the cited reference. As discussed above, Voegeli '967 fails to disclose all of the claim limitations of independent claim 1, and those claims dependent thereon. Accordingly, the reference does not render the present invention obvious.

Furthermore, the cited reference or the knowledge in the art provides no reason or rationale that would allow one of ordinary skill in the art to arrive at the present invention as claimed. Therefore, a *prima facie* case of obviousness has not been established, and withdrawal of the outstanding rejection is respectfully requested. Any contentions of the USPTO to the contrary must be reconsidered at present.

**Conclusion**

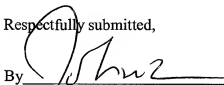
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad M. Rink, Registration No. 58,258, at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: DEC 11 2009

Respectfully submitted,



By \_\_\_\_\_  
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Attachment: Combined Declaration and Power of Attorney